

REMARKS/ARGUMENTS

Reconsideration of the rejections is respectfully requested.

The limitation “predetermined breaking point (36) and stress-controlling elements (46) ... arranged in such a way that a stress in the base (12) in an impact with the windshield wiper device (10) will increase on the predetermined breaking point (36) in such a way that the predetermined breaking point (36) will bend or even break off completely” does define structure. It defines the structure of the base, and this would be understood by one skilled in the art.

Paragraph 24 of Applicants’ specification explains that the “arrangement of these stress-controlling elements 46 can be determined in a simple manner using a finite element simulation, and is a function of the precise shape of the base 12 and the arrangement of the drive unit 18 as well as the fastening sections 34 and the arrangement of the wiper bearing 14.”

Therefore, one skilled in the art, following the suggestion of Applicants’ disclosure, would know how to form the stress-controlling elements. Similarly, one skilled in the art examining an infringing device would know how to determine if the stress-controlling elements are present.

The stress-controlling elements are not merely statements of intended desired function. They are structural characteristics of the base that will provide the desired function, just like a fastener will provide the desired function of fastening two things together. The stress-controlling elements are structure, and a person skilled in the art knows how to build them into the claimed base, and knows whether they are present in an infringing device.

Therefore, claim 1 and dependent claims 2-6, 8-12 and 14-17 are allowable.

Respectfully submitted,

/David R. Price/

David R. Price
Reg. No. 31,557

Docket No.: 022862-1103
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, Wisconsin 53202-4108
414.271.6560